

Montana Water Court  
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IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
DEARBORN RIVER BASIN (41U)  
PRELIMINARY DECREE

\* \* \* \* \*

CLAIMANT: Tee Bar Ranch Co

**CASE 41U-0121-R-2023**  
41U 117749-00

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above-stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

## MASTER'S REPORT

### FINDINGS OF FACT

1. Tee Bar Ranch Co. stock claim 41U 117749-00 was decreed with a DNRC issue remark:

ON 3/11/1985, AFTER ISSUANCE OF THE TEMPORARY PRELIMINARY DECREE, THE DNRC NOTIFIED THE WATER COURT OF A POTENTIAL ISSUE WITH THE SOURCE NAME FOR THIS CLAIM. THE ELEMENT IS BEING ADDED TO THE OBJECTION LIST AND WILL BE ADDRESSED DURING ADJUDICATION OF THE PRELIMINARY DECREE.

All DNRC issue remarks must be resolved.

2. Claim 41U 117749-00 was decreed with the source listed as “Spring, Unnamed Tributary of Myles Creek.” Based on information in the record, it appears the source should be corrected to “Spring, Unnamed Tributary of Henry Creek.”

3. An Order was issued setting a deadline for Claimant Tee Bar Ranch Co. to agree or disagree that the source name for claim 41U 117749-00 be corrected to Spring, Unnamed Tributary of Henry Creek. The Order indicated that if nothing were filed by the March 31, 2023 deadline, this Water Master would conclude that Claimant Tee Bar Ranch Co. agrees the source name for claim 41U 117749-00 should be corrected to Spring, Unnamed Tributary of Henry Creek. The following language was included in the Order:

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R.

Nothing was filed by the deadline.

### PRINCIPLES AND CONCLUSIONS OF LAW

1. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R., *Nelson v. Brooks*, 2014 MT 120; 375 Mont.86, 95; 329 P.3d 558, 564.

2. Pursuant to Rule 22, W.R.Adj.R., if a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing or fails to comply with an order issued by the Water Court, the Water Court may issue such orders of sanction with regard thereto as are just.

3. The source information in the record overcomes the prima facie statement of claim. The source for claim 41U 117749-00 should be corrected.

#### RECOMMENDATIONS

1. The source name for claim 41U 117749-00 should be corrected to Spring, Unnamed Tributary of Henry Creek.

2. The issue remark should be removed from claim 41U 117749-00.

A Post Decree Abstract of Water Right Claim is served with the Report for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

#### **Service via USPS Mail:**

Tee Bar Ranch Co  
P.O. Box 389  
Augusta, MT 59410

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
DEARBORN RIVER  
BASIN 41U**

**Water Right Number:** 41U 117749-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** TEE BAR RANCH CO  
PO BOX 389  
AUGUSTA, MT 59410

**Priority Date:** APRIL 1, 1904

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** SPRING, UNNAMED TRIBUTARY OF HENRY CREEK

**Source Type:** GROUNDWATER

ALSO KNOWN AS MERRILL SPRING.

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWNWSW	35	19N	4W	LEWIS AND CLARK

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** FLOWING

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NWNWSW	35	19N	4W	LEWIS AND CLARK